

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

UNITED STATES OF AMERICA

v.

ELIAS JUNIOR RODRIGUEZ

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1:18CR401-7

**MEMORANDUM ORDER**

This matter is before the Court on Defendant Elias Junior Rodriguez's third pro se Motion for Sentence Reduction/Compassionate Release Pursuant to 18 U.S.C. § 3582(c)(1)(A); and the "Catchall" Provision [Doc. #184]. Rodriguez's first and second motions were denied because there were no extraordinary and compelling reasons warranting a sentence reduction and, even if there were, the factors from 18 U.S.C. § 3553(a) counseled against relief. In continued support of his earlier motions, Rodriguez submits an email documenting his height and weight to confirm his obesity and mistakenly believes his motions were "primar[ily]" denied because of the § 3553(a) factors. For the reasons explained below, his motion is denied.

The Court previously found that, although Rodriguez exhausted his administrative remedies, he had not met his burden of showing that extraordinary and compelling reasons warrant relief. (Mem. Order (Feb. 9, 2021) [Doc. #181] (citing 18 U.S.C. § 3582(c)(1)(A)(i); United States v. McCoy, 981 F.3d 271, 284 (4th Cir. 2020) (finding "no 'applicable' policy statement governing compassionate-

release motions filed by defendants under the recently amended § 3582(c)(1)(A), “empower[ing]” courts “to consider any extraordinary and compelling reason for release that a defendant might raise”) (citation omitted); U.S. Sentencing Guideline § 1B1.13, Application n.1 (providing circumstances found to be extraordinary and compelling) cited in McCoy, 981 F.3d at 282 n.7 (noting that § 1B1.13 “remains helpful guidance even when motions are filed by defendants”); Dep’t of Justice, Fed. Bureau of Prisons, Program Statement 5050.50 (Jan. 17, 2019) (explaining circumstances supporting compassionate release).) Contrary to Rodriguez’s understanding, this failure to show extraordinary and compelling reasons for relief was the “primary” reason for denying his earlier motions and continues to be.

In support of the instant motion, Rodriguez proffers no new extraordinary and compelling reason for a sentence reduction but does provide support for his obesity. Previously, he claimed to be severely obese and suffer from hypertension, but the information before the Court only confirmed his hypertension. The Bureau of Prisons (“BOP”) email Rodriguez submits with the instant motion states his height and weight which equate to a body mass index of 32.3, which is considered to be obese, Centers for Disease Control and Prevention (“CDC”), Adult BMI Calculator,

[https://www.cdc.gov/healthyweight/assessing/bmi/adult\\_bmi/english\\_bmi\\_calculator/bmi\\_calculator.html](https://www.cdc.gov/healthyweight/assessing/bmi/adult_bmi/english_bmi_calculator/bmi_calculator.html). Since Rodriguez’s earlier motions, the CDC has updated its guidance on the relationship between medical conditions and COVID-19 risks.

Now, the CDC reports that hypertension and obesity “can make [individuals] more

likely to get severely ill from COVID-19.” CDC, People with Certain Medical Conditions, <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html> (updated Mar. 29, 2021).

Rodriguez remains housed at FCI Butner Medium II where the number of individuals reported as presently positive for COVID-19 has fallen since his last motion for compassionate release. (See Mem. Order at 4.) As of April 8, 2021, no inmates and two staff members were reported positive. BOP, COVID-19 Coronavirus, <https://www.bop.gov/coronavirus/> (also reporting three inmates who have died and 433 inmates and twenty-one staff members who have recovered). Furthermore, the BOP’s administration of the COVID-19 vaccines has expanded. Over 122,000 doses have been administered, and 860 staff members and 1,801 inmates at FCC Butner have been fully inoculated. Id. Therefore, although Rodriguez has confirmed his obesity, nothing before the Court changes the ultimate assessment – he has not shown extraordinary and compelling reasons for release.

Rodriguez contends his previous motions were denied “primar[ily]” because of the factors from 18 U.S.C. § 3553(a), “mainly” his prior criminal conduct. As explained above, his earlier motions, like the instant one, were denied because he failed to meet his burden of showing extraordinary and compelling reasons for release. But, it was determined that even had he done so, the factors from §3553(a) counseled against relief. Indeed, his prior criminal history and instant offense conduct were assessed, but so, too, were Rodriguez’s post-sentencing conduct and other arguments. (See Mem. Order at 6-8.) He has presented nothing

in the instant motion that changes the Court's previous analysis. Ultimately, though, regardless of the application of the § 3553(a) factors, he has failed to show that extraordinary and compelling reasons warrant relief.

For the reasons explained above, IT IS HEREBY ORDERED that Defendant Elias Junior Rodriguez's third pro se Motion for Sentence Reduction/Compassionate Release Pursuant to 18 U.S.C. § 3582(c)(1)(A); and the "Catchall" Provision [Doc. #184] is DENIED.

This the 9th day of April, 2021.

/s/ N. Carlton Tilley, Jr.  
Senior United States District Judge